

3. MARCOS CENTURION
(Applicant)

06-4-CZ12-2 (05-184)
Area 12/District 8
Hearing Date: 4/4/06

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐/lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
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NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 12**

APPLICANT: Marcos Centurion

PH: Z05-184 (06-4-CZ12-2)

SECTION: 06-55-40

DATE: April 4, 2006

COMMISSION DISTRICT: 8

ITEM NO.: 3

A. INTRODUCTION

o **REQUESTS:**

1. AU to EU-M
2. Applicant is requesting to permit 1 lot with a frontage of 113' and 1 lot with a frontage of 113.05' (120' required for each).

Upon a demonstration that the applicable standards have been satisfied, approval of request #2 may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Site Plan," as prepared by Mario Prats, Jr. & Associates and dated 5/6/05. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

The requests will allow the applicant to change the zoning on the property from AU, Agricultural District, to EU-M, Estate Modified One Family District, and allow 2 single-family residences on lots with varying frontages. All proposed lots are planned to be located on a cul-de-sac north of, and connecting to SW 95 Street.

o **LOCATION:**

11605 S.W. 95 Street, Miami-Dade County, Florida.

o **SIZE:** 2.11 Acres

o **IMPACT:**

The approval of the requested district boundary change will provide 4 additional housing units for the community. The rezoning of this site will have an impact on the schools, water and sewer services, and traffic in the area.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2005 and 2015 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Estate Density** residential use. This density range is typically characterized by detached estates, which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre. The subject property is located approximately one-half (1/2) mile east of and within the Urban Development Boundary line.
2. Some existing uses and zoning are not specifically depicted on the LUP map. All existing lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map". The limitations referenced in this paragraph pertain to existing zoning districts and uses. All approval of new residential locations must be consistent with the LUP map or the specific exceptions provided in the various LUP map categories, the objectives and policies of this Plan.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

AU; single-family residence

Estate Density Residential, 1 to 2.5 du

Surrounding Properties:

NORTH: AU; single family residences

Estate Density Residential, 1 to 2.5 du

SOUTH: AU; single-family residences

Estate Density Residential, 1 to 2.5 du

EAST: AU; single-family residences

Estate Density Residential, 1 to 2.5 du

WEST: RU-1Z; single family residences

Low Medium Density Residential, 5 to 13 du

The subject property is located on the northeast corner of S.W. 117 Avenue & S.W. 95 Street. The area where the subject property lies is characterized by single-family residences with smaller lots to the west of S.W. 117 Avenue and larger lots on the east side of S.W. 117 Avenue.

E. SITE AND BUILDINGS:

Site Plan Review:

(Site plan submitted.)

Scale/Utilization of Site:

Acceptable

Location of Buildings:	Acceptable
Compatibility:	Acceptable
Landscape Treatment:	N/A
Open Space:	N/A
Buffering:	N/A
Access:	Acceptable
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	N/A
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, **Section 33-311** provides that the Board take into consideration, among other factors, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts:

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

1. the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
2. the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:
 - A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
 - B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or

administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and

- C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
3. the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
4. If the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and

- B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area; [and]
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations imposed by section 33B-45 of this code.
- (h) Proposed alternative development under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the quality of life of the residents of the approved development and the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, common open space, additional trees or landscaping, convenient covered bus stops or pick-up areas for transportation services, sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed development, the following shall be considered:
- A. the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts;

- B. and the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping.

Section 33-311 (A)(4)(b) Non-use variances from other than airport regulations.

Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative non-use variance standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

G. NEIGHBORHOOD SERVICES:

DERM	No objection*
Public Works	No objection*
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	1 student

*Subject to the conditions indicated in their memoranda.

H. ANALYSIS:

The subject property is located on the northeast corner of S.W. 117 Avenue, and S.W. 95 Street at 11605 S.W. 95 Street. Said property is located approximately 6.5 miles east of and within the Urban Development Boundary (UDB) Line. The applicant is seeking a zone change from AU, Agricultural District, to EU-M, Estate Modified One Family District, to

permit the construction of 4 single-family residences. The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that this application meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. However, the applicant will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application. The **Public Works Department** has **no objections** to this application. They have indicated that road dedications and improvements will be accomplished through the recording of a plat. According to their memorandum, this application meets traffic concurrency criteria and will generate **6** additional **PM** daily peak hour vehicle trips. However, the distribution of these trips to the adjacent roadways does not exceed the acceptable levels of service (LOS) of roadways which are currently operating at LOS "A" and "C". **Miami-Dade County Public Schools** (MDCPS) has indicated that the proposed zoning will bring **1** additional **student** into the area's public schools. They indicate that William Lehman Elementary, Arvida Middle and Miami Killian Senior High are the schools that will be impacted by this development, which are currently operating at 125%, 153% and 154% of the Florida Inventory of School Houses (FISH) utilization. Currently, all of the schools exceed the 115% FISH MDCPS capacity threshold. MDCPS met with the applicant on April 13, 2005 to discuss the impact of the proposed student to the area schools. As a result of said meeting, the applicant has voluntarily proffered a covenant to MDCPS in order to provide a monetary donation, over and above impact fees.

Approval of this application to rezone the property from AU to EU-M would permit the applicant to provide 4 additional housing units for the community. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates this site for **Estate Density Residential** use, which permits a minimum of 1 to a maximum of 2.5 units per gross acre for a maximum of 5 residential units on the site. The proposed EU-M zoning also allows a maximum of 5 units on the site, at an estimated density of 2.42 dwelling units per acre (dua). The applicant has submitted plans indicating the proposed development of this parcel of land with 4 residential lots, each with approximately 17,000 net sq. ft. in area, which meets the 15,000 net sq. ft. EU-M requirement. As such, approval of this application is **consistent** with the LUP map designation of the CDMP.

The Department of Planning and Zoning supports the zone change to EU-M (request #1). Staff notes that the subject property is located in an area that is developed under the LUP map's Estate Density Residential use designation and in accordance with AU zoning district regulations. The proposed EU-M zoning will be in keeping with the development trend in the area consisting of EU-S, EU-M and RU-1 zoned single-family residential developments to the south of the subject property along SW 117 Avenue. Additionally, the approval of this application will provide a transition from the higher density RU-1 and RU-1Z zoning districts to the west of the subject property and the AU zoning district to the east of same. As such, the requested zone change to EU-M would be **compatible** with the current estate-sized single-family residential developments in the area and **consistent** with the Estate Density land use designation of the CDMP. Additionally, the request complies with the standards outlined in Section 33-311. As previously shown, the development conforms to the standards set forth in the CDMP; the development will not have an unfavorable impact on the environment since it is located within the Urban Development Boundary and is not within a Natural Forest Community or other environmentally sensitive area; the development of four residential homes on the subject property will have a favorable

economic impact on Miami-Dade County by provided additional tax revenues; the development, as proposed, would not unduly burden water, sewer, solid waste disposal, or other necessary public facilities; and finally, the development does not unduly burden or affect public transportation facilities since the six additional daily peak hour vehicle trips do not diminish the current LOS of the area roadways as indicated on the Public Works Department's memorandum. Based on all the aforementioned, staff recommends approval of the zone change to EU-M.

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(14), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable alternative site development option standards and does not contravene the enumerated public interest standards as established. Request #2 does not comply with all of the ASDO standards. The proposed development complies with those certain standards in that the proposed alternative development will not result in the further subdivision of land, the size and dimension of the lots are sufficient to provide all setbacks required by the underlying zoning district regulations, the lot area is not less than ninety percent (90%) of the minimum lot area required by the zoning district regulations, and the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity. Staff notes that the project must comply with all the standards set forth in Section 33-311(A)(14)(d). Said section indicates that a relief of lot area, frontage or depth shall be approved upon a demonstration of at least one of the four criteria established. However, the applicant has not indicated under which criteria the request should be addressed, nor provided additional mitigation or documentation as necessary to be analyzed under the ASDO Standards. As such, request #2 should be denied without prejudice under same.

If analyzed under the Alternative Non-Use Variance (ANUV) Standards, Section 33-311(A)(4)(c), the applicant would have to prove that request #2 is due to an unnecessary hardship and that, should the request not be granted, such denial would not permit the reasonable use of the premises. However, since the property can be utilized in accordance with the proposed EU-M zoning standards, said request cannot be approved under the alternative non-use variance standards.

When analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) standards, staff is of the opinion that the approval with conditions of request #2, to permit 1 lot with a frontage of 113' and 1 lot with a frontage of 113.05' (120 required for each), would be **compatible** with the surrounding area, would not negatively affect the stability and appearance of the community, and would not be detrimental to the neighborhood. Two of the four proposed residential lots, with less frontage than required, will not result in an obvious departure from the aesthetic character of the surrounding area and will maintain the basic intent of the zoning and subdivision regulations. The 0.72 acre property consisting of three lots immediately north of the subject site was approved by the Zoning Appeals Board pursuant to Resolution 4-ZAB-278-81 to permit less frontage and lot area and with greater lot coverage than required by the Code. Specifically, two of the lots were approved with a lot area of 7,481 sq. ft where 10,000 sq. ft. were required. The third lot was approved with a lot area of 7,787 sq. ft. and with a lot frontage of 74.81' where 10,000 sq. ft. and 100' were required, respectively. As such, the development of the subject

property with 4 single family residences on lots with a minimum area ranging from 17, 072 sq. ft. to 17,843 sq. ft. would not be detrimental to the surrounding area. As such, staff recommends approval with conditions of this request under the NUV Standards.

Accordingly, staff recommends approval of the zone change to EU-M (request #1). Staff further recommends approval of request #2 with conditions under §33-311(A)(4)(b) (Non-Use Variance), and denial without prejudice under §33-311(A)(14) (Alternative Site Development Option), and under §33-311(A)(4)(c) (Alternative Non-Use Variance).

I. **RECOMMENDATION:** Approval of the zone change to EU-M (request #1). Approval of request #2 with conditions under the NUV standards, Section 33-311(A)(4)(b) and denial of same under Sections 33-311(A)(4)(c), the ANUV Standards, and 33-311(A)(14), the ASDO Standards.

J. **CONDITIONS:**

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Completion said plan to include, but not limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Site Plan," as prepared by Mario Prats, Jr. & Associates and dated 5/6/05.
3. That the use be established and maintained in accordance with the approved plan.

DATE INSPECTED: 08/04/05
DATE TYPED: 12/14/05
DATE REVISED: 12/14/05; 02/08/06; 03/24/06; 03/27/06
DATE FINALIZED: 03/27/06
DO'QW:AJT:MTF:LVT:JV:JED


Diane O'Quinn Williams, Director
Miami-Dade County
Department of Planning and Zoning

Memorandum



Date: December 20, 2005

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "Jose Gonzalez".

Subject: C-12 #Z2005000184-Revised
Marcos Centurion
11605 SW 95th Street
District Boundary Change from AU to EU-M
Non-Use Variance of Frontage Requirements
(AU) (2.11 Ac.)
06-55-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Wellfield Protection:

The subject property is located within the Average Day Pumpage Wellfield Protection Area of the Alexander Orr/Snapper Creek/Southwest Wellfield Complex. Development of the subject property shall be in accordance with the regulations established in Section 24-43 of the Code. Since the proposed zoning request is for a residential land use, a hazardous wastes prohibition covenant is not required. However, as previously stated all development shall conform with code requirements.

Potable Water Supply and Wastewater Disposal:

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements. All sewer lines serving the property shall comply with the exfiltration standards as applied to development within wellfield protection areas.

Existing public water and public sanitary sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction of the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternative means of sewage disposal. Use of an alternative means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management:

A surface Water Management General Permit from DERM shall be required for the construction and operation of the required surface water management system. This permit must be obtained prior to re-development of site, final plat and public works approval of paving and drainage plans. The applicant is advised to contact DERM in order to obtain additional information concerning permitting requirements.

All stormwater shall be retained on site utilizing properly designed seepage or infiltration drainage structures. Drainage must be provided for the 5-year/1-day storm event with full on-site retention of the 25-year/3-day storm. Pollution Control devices shall be required at all drainage inlet structures.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands:

The subject property does not contain jurisdictional wetlands as defined by Section 24-5 of the Code; therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600) and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation:

An on-site inspection revealed the presence of specimen-sized (trunk diameter $\geq 18"$) tree resources. Section 24-49 of the Code requires the preservation of tree resources. Consequently, DERM will require the on-site preservation of the specimen-sized trees, whenever reasonably possible, on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on site will be required prior to reviewing the tree removal permit application.

The applicant is aware of DERM preservation requirements and has submitted a site plan of record entitled "Plan of Survey" Sheet 1 of 1, prepared by Mario Prats Jr and Associates Inc, and dated May 6, 2003 (last revised 11/08/2005), that states that all existing trees on site are to remain.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

DERM has conducted a concurrency review for this application and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order as provided for in the adopted methodology for concurrency review.

Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written approval to that effect as required by the Code.

cc: Lynne Talleda, Zoning Evaluation-P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: MARCOS CENTURION

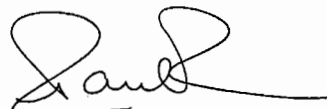
This Department has no objections to this application.

This land requires platting in accordance with Chapter 28 of the Miami-Dade County Code. The road dedications and improvements will be accomplished thru the recording of a plat.

This application does meet the traffic concurrency criteria for an Initial Development Order. It will generate 6 PM daily peak hour vehicle trips. The traffic distribution of these trips to the adjacent roadways reveal that the addition of these new trips does not exceed the acceptable level of service of the following roadways:

Sta.#		LOS present	LOS w/project
9748	SW 117 Ave. s/o SW 88 St.	C	C
9750	SW 117 Ave. s/o SW 112 St.	A	A
9716	SW 104 St. w/o SW 107 Ave.	C	C

The request herein constitutes an Initial Development Order only and one or more traffic concurrency determinations will subsequently be required before development will be permitted.



Raul A Pino, P.L.S.

26-JUL-05



Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Rudolph F. Crew, Ed.D.

Ana Rijo-Conde, AICP, Facilities Planning Officer
Facilities Planning

September 26, 2005

Miami-Dade County School Board

Frank J. Bolaños, Chair
Dr. Robert B. Ingram, Vice Chair
Agustin J. Barrera
Evelyn Langlieb Greer
Peña Tabares Hantman
Dr. Martin Karp
Ana Rivas Logan
Dr. Marta Pérez
Dr. Solomon C. Stinson

Ms. Maria Teresa-Fojo, Division Chief
Miami-Dade County
Department of Planning and Zoning
Zoning Evaluation Section
111 NW 1 Street, Suite 1110
Miami, Florida 33128

Re: Marcos Centurion - Application No. 05-184 (CC12)
11605 SW 95 Street

Dear Ms. Fojo:

Pursuant to the state-mandated and School Board approved Interlocal Agreement, local government, the development community and the School Board are to collaborate on the options to address the impact of proposed residential development on public schools where the proposed development would result in an increase in the schools' FISH % utilization (permanent and relocatable), in excess of 115%. This figure is to be considered only as a review threshold and shall not be construed to obligate the governing agency to deny a development.

Attached please find the School District's (District) review analysis of potential impact generated by the above referenced application. Please note all of the impacted school facilities meet the referenced review threshold. The proposed residential development will impact William Lehman Elementary School, Arvida Middle School and Miami Killian Senior High School currently operating at 125%, 153% and 154% of FISH % utilization (please see enclosed analysis).

Additionally, at its April 13, 2005 meeting, the Board approved School District criteria that would allow District staff to make recommendations on residential zoning applications that impact public schools beyond the 115% of FISH capacity threshold (Review Criteria). Pursuant to the Interlocal and the recently approved Review Criteria, the District met with the applicant on August 31, 2005, to discuss the impact of the proposed development on public schools.

The District is grateful that the applicant took the time to meet with the School District to discuss possible mitigation options outlined in the Review Criteria that may accommodate new students generated by the proposed application. As such, the applicant has voluntarily proffered a covenant to the School Board in order to provide a monetary donation, over and above impact fees. The payment of the required educational impact fees for this proposed development and the proffered monetary donation will provide the full capital cost of student stations for the additional students generated by the proposed development. Please be advised that such a proffer by the applicant is subject to School Board approval at an upcoming meeting.

School Board Administration Building • 1450 N.E. 2nd Avenue, Suite 525 • Miami, Florida 33132
305-995-7285 • FAX 305-995-4760 • arijo@dadeschools.net

Ms. Maria Teresa-Fojo
September 26, 2005
Page Two

Please note the attached analysis depicts the relief schools planned in the area, which includes the recently approved Facilities Five Year Work Program.

Also, attached is a list of approved Charter School Facilities, which may provide relief on a countywide basis.

Additionally, pursuant to Miami-Dade County's Educational Facilities Impact Fee Ordinance the proposed development, if approved, will be required to pay educational facilities impact fees (impact fees) based on the following formula:

$$\text{New residential unit square footage} \times .90 (\text{Square Footage Fee}) + \$600.00 (\text{Base Fee}) + 2\% \text{ administrative fee} = \text{Educational Facilities Impact fee}$$

As an example, assuming the proposed unit is 2,000 square feet, the 3-unit development is estimated to generate approximately \$7,200 (\$2,400 per unit, excluding the 2% administration fee) in impact fees. This figure may vary since the impact fees assessed are based on the actual square footage of each dwelling unit.

As always, thank you for your consideration and continued partnership in our mutual goal to enhance the quality of life for the residents of our community.

Sincerely,



Patricia Good
Coordinator III

PG:am
L-0399
Attachment

cc: Ms. Ana Rijo-Conde
Mr. Fernando Albuerne
Mr. Michael A. Levine
Mr. Ivan M. Rodriguez
Ms. Vivian Villaamil
Mr. Alfredo Garcia-Menocal

SCHOOL IMPACT REVIEW ANALYSIS

APPLICATION: No. 05-184, Marcos Centurion (CC12)

REQUEST: Zone change from AU to EU-M

ACRES: 2.11 acres

MSA/Multiplier: 5.5/.44

LOCATION: 11605 SW 95 Street

NUMBER OF UNITS: 3 additional units (1 unit currently permitted under existing zoning classification, for a total of 4 units)

ESTIMATED STUDENT POPULATION: 1 students*

ELEMENTARY: 1

MIDDLE: -

SENIOR: -

SCHOOLS SERVING AREA OF APPLICATION:

ELEMENTARY: William Lehman Elementary - 10990 SW 113 Pl.

MIDDLE: Arvida Middle – 10900 SW 127 Ave.

SENIOR HIGH: Miami Killian Senior – 10655 SW 97 Ave.

All schools are located in Region 5

* Based on Census 2000 information provided by the Miami-Dade County Department of Planning and Zoning.

The following population and facility capacity data are as reported by the Office of Information Technology, as of August, 2005:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS	% UTILIZATION FISH DESIGN CAPACITY PERMANENT AND RELOCATABLE	CUMULATIVE STUDENTS **
William Lehman Elementary	881/ 882*	703	125%/ 125%*	0	125%/ 125%*	882
Arvida Middle	1827	1118	202%	79	153%	1889
Miami Killian Sr.	3947	2323	170%	238	154%	4018

* increased student population as a result of the proposed development.

** Estimated number of students (cumulative) based on zoning/land use log (2001- present) and assuming all approved developments are built; also assumes none of the prior cumulative students are figured in current population.

Notes:

1. Figures above reflect the impact of the class size amendment.
2. Pursuant to the Interlocal Agreement, all of the schools meet the review threshold.

PLANNED RELIEF SCHOOLS IN THE AREA

(information included in proposed 5-Year Capital Plan, 2005-2009, dated January 2005):

Projects in Planning, Design or Construction

<u>School</u>	<u>Status</u>	<u>Projected Occupancy Date</u>
Addition at Miami Killian Senior High School (875 student stations)	Construction	August 2006

Proposed Relief Schools

<u>School</u>	<u>Funding Year</u>
Devon Aire Elementary K-8 Conversion (Arvida Middle School Relief) (551 student stations)	FY 06-07
New Middle School ("CC2") (Glades and Arvida Middle and Kenwood K-8 School Relief) (1241 student stations)	FY 07-08

New Senior High School ("III1")
 (Miami Palmetto and Killian Senior High School Relief)
 (1613 student stations)

FY 07-08

Estimated Permanent Elementary Seats (Current and Proposed in 5-Year Plan)	703
Estimated Permanent Middle Seats (Current and Proposed in 5-Year Plan)	2910
Estimated Permanent Senior High seats (Current and Proposed in 5-Year Plan)	4811

Note: Some of the proposed schools will add relief to more than one school and new seats will be assigned based on projected need.

OPERATING COSTS: According to Financial Affairs, the average cost for K-12 grade students amounts to \$6,549 per student. The total annual operating cost for additional students residing in this development, if approved, would total \$6,549.

CAPITAL COSTS: Based on the State's August-2005 student station cost factors*, capital costs for the estimated additional students to be generated by the proposed development are:

ELEMENTARY	1	x	\$ 13,588	=	\$ 13,588
------------	---	---	-----------	---	-----------

* Based on Information provided by the Florida Department of Education, Office of Educational Facilities Budgeting. Cost per student station does not include land cost.

2005-2006 Charter School Enrollment Projections

School Name	Actual Enrollment 2004-2005	Enrollment Projections for 2005-2006		
		2005-2006	2006-2007	Maximum
Academy of Arts & Minds	139	400	500	500
Archimedean Academy	432	525	525	525
Archimedean Middle Conservatory	55	180	240	240
ASPIRA Eugenio Maria de Hostos	299	600	600	600
ASPIRA Youth Leadership	291	450	450	450
ASPIRA South Youth Leadership	202	210	450	600
Aventura City of Excellence School	671	900	900	900
Balera Language Academy	155	175	250	450
Coral Reef Montessori	324	500	500	500
Doctors Charter School of Miami Shores	401	375	450	525
Doral Academy	728	2,200	2200	2,200
Doral Academy Middle School	809	1,250	1250	1,250
Doral Academy High School	908	1,800	1800	1,800
Doral Performing Arts & Entertainment Academy	50	100	150	200
Downtown Miami Charter School	558	650	650	650
Early Beginnings Academy - Civic Center	25	80	80	80
Early Beginnings Academy - North Shore	12	43	43	70
Florida International Academy	258	350	350	350
International Studies Charter High School	80	500	750	1,000
Keys Gate Charter School	1,085	1,150	1,150	1,150
Lawrence Academy	69	120	250	450
Liberty City Charter School	372	705	705	705
Life Skills Center Miami-Dade County	13	300	450	600
Mater Academy	700	1,150	1,150	1,150
Mater Academy Charter High School	1,158	1,300	1,300	1,300
Mater Academy Charter Middle School	1,157	1,300	1,300	1,300
Mater Academy East Charter School	310	800	800	800
Mater Academy East Middle School	103	250	250	250
Mater Performing Arts & Entertainment Academy	97	100	150	200
Miami Children's Museum	72	350	350	350
Miami Community Charter School	221	600	600	600
Oxford Academy of Miami	101	450	450	450
Pinecrest Preparatory Academy Middle School	216	750	800	800
Pinecrest Preparatory Academy	743	1,250	1,250	1,250
Rosa Parks Charter School/Florida City	192	400	600	600
Renaissance Elementary Charter School	444	500	500	500
Renaissance Middle Charter School	43	50	700	1,600
Sandor Wiener School of Opportunity	19	72	72	72
Sandor Wiener School of Opportunity, South	17	36	36	36
School for Integrated Academics & Technologies	262	600	800	800
Somerset Academy	514	700	700	700
Somerset Academy Charter Middle School	70	300	300	300
Somerset Academy Charter High School	7	250	375	500
Spiral Tech Elementary Charter School	71	290	290	290
Spirit City Academy	40	250	300	400
Sunshine Academy	100	150	200	450
The Charter School at Waterstone	1,001	1,000	1,000	1,000
Theodore R. and Thelma A. Gibson Charter School	11	500	600	600
Transitional Learning Academy	28	48	48	72
Youth Co-Op Charter School	508	525	525	525
TOTAL: 50 schools	16,141	27,514	30,139	32,690

Board Approved Applications for Schools Opening in 2006			
Applicant	Proposed Enrollment for 2006		
	Number of Schools	2006 Enr.	Maximum
Charter on the Beach Middle School	-0-	250	250
Liceo ENLACE Miami Charter Academy	-0-	475	775
A Child's Journey Charter School	-0-	175	600
Atlantic Science Academy	-0-	600	840
Cooperative Charter School	-0-	100	200
Dr. Joseph Coats Grace Community Charter School	-0-	600	600
Excelsior Academy of Miami	-0-	450	450
Mosaic Bilingual Academy	-0-	120	365
North Miami/Florida Int'l Univ. Charter Sr. High School	-0-	800	1,600
Pinecrest Academy Charter High School	-0-	800	850
South Dade Charter Elementary School	-0-	625	750
Summerville Charter School	-0-	600	600
TOTAL: 12 schools	-0-	5,395	7,880
SUB-TOTAL (EXISTING + APPROVED): 52 schools	27,514	35,324	40,570

Board Approved applications for schools opening in subsequent years		
Applicant	Number of Schools	Maximum Enrollment Capacity
Somerset Academy	6	6,400
Mater Gardens Academy Elementary School	1	900
Mater Springs Academy Elementary School	1	600
Mater Academy South Charter School	1	900
Mater Gardens Academy Middle School	1	450
Mater Springs Academy Middle School	1	300
Sabal Palm Charter High School	1	800
Charter Academy of Excellence	1	600
Palmetto Bay Charter Academy	1	1,600
Princeton Charter Academy	1	1,600
Homestead Charter High School	1	2,000
South Miami-Dade Charter Elementary School	1	600
South Miami-Dade Charter Middle School	1	300
Total :	18 schools	17,050
GRAND TOTALS		
Number of Schools		Maximum Enrollment Capacity
80		57,620

NEW CHARTER SCHOOLS FOR 2005-2006

W/L	Name and Address of Charter School	Contact Information	Grade Levels
6006	Archimedean Middle Conservatory 12425 SW 72 St. Miami, FL 33183	Ms. Vasiliki Moysidis 305 640-6278	6-8
7016	Bridge Academy <i>Main Campus:</i> 8325 NE 2 Ave., Miami, FL 33138 <i>South Campus:</i> 224 Washington Ave., Homestead, FL 33030	Dr. Leo S. Cardona 954 907-2771 786 513-0546 Fax drleo@myfra.com	12
8007	Charter on the Beach Middle School 2301 Normandy Dr. Miami Beach, FL 33141	Ms. Gladys Palacio 786 258-2505 gladyspalacio@aol.com	7-8
8040	Doctors Charter School of Miami Shores 11301 NW 5 Ave. Miami Shores, FL 33138	Ms. Maggie Manrara 305 795-2207 manraram@miamishoresvillage.com	6-12
7009	Doral Performing Arts & Entertainment Academy 11100 NW 27 St., Doral, FL 33172 and 2601 NW 112 Ave., Doral, FL 33172	Ms. Ofelia Alvarez 305 597-8950	9-12
4080	Early Beginnings - North Shore 985 NW 91 St. Miami, FL 33150 (North Shore Medical Center)	Ms. Carol Byrd, Principal United Cerebral Palsy 305 325-1080	PK-K
4070	Early Beginnings - Civic Center 1411 NW 14 Ave. Miami, Florida 33125	Ms. Carol Byrd, Principal United Cerebral Palsy 305 325-1080	PK-K
6027	Transitional Learning Academy 1411 NW 14 Ave. Miami, Florida 33125	Ms. Pamela Miller, Principal United Cerebral Palsy 305 325-1080	8-12
6008	Lawrence Academy 777 West Palm Drive Florida City, FL 33034	Dr. Keitha Burnett 305 281-3052 mkburn293@aol.com	6-8
1000	Liceo ENACEI Miami 9705 E. Hibiscus Palmetto Bay, FL 33157	Ms. Lucy Puella-Capone 305 213-7723 ces1234@aol.com	K-8
6009	Mater East Academy Middle School 450 SW 4 St. Miami, FL 33130	Ms. Ana Valdes, Principal 305 324-4667	6-8

W/L	Name and Address of Charter School	Contact Information	Grade Levels
7014	Mater Performing Arts & Entertainment Academy 7901 NW 103 St. Hialeah Gardens, FL 33016	Ms. Christine McGuinn, Principal 305 828-1886	9-12
5010	Oxford Academy of Miami 10870 SW 106 St. Miami, FL 33176	Mr. Tobias Hernandez, Principal 305 598-4484 305 275-2003 Fax	K-5
5030	Sandor Wiener School of Opportunity, South 11025 SW 84 St. Miami, FL 33173	Ms. Lissa Gonzalez, Principal 305 279-3064 Lgonzalez1@dadeschools.net	PK-5
5050	Sunshine Academy 1733 NE 162 St. N. Miami Beach, FL 33162	Ms. Ann-Marie Manzano, Director 786 210-8324 manzanos5@netzero.net	K-8
1010	The Charter School at Waterstone 855 East Waterstone Way Homestead, FL 33034	Dr. Cristina Cruz, Principal dcruzwaterstone@aol.com Temporary office: Prime Outlets Mall 250 East Palm Drive, Suite 245 Florida City, FL 33034 305 248-6206 Fax: 305 248-6208 Email: info@charterschoolatwaterstone.com Web: www.charterschoolatwaterstone.com	K-8
6029	Spirit City Academy 3400 NW 135 St. Opa-locka, FL 33054	Ms. Cecilia Honeywood, Principal 786 493-1546 cahoneywood@dadeschools.net	6-8
7015	Life Skills Center Miami-Dade County 3535 NW 7 Street Miami, FL 33125	Mr. Jose Filpo 305 643-9111 305 643-9141 Fax jose.filpo@lifeskillscenters.com	10-12
6028	Renaissance Middle Charter School Temporary location for 05-06: 8360 NW 33 St. Miami, FL 33122	Ms. Ana Cordal, Principal 305 591-2225 acordal@dadeschools.net	6-8

Memorandum



Date: 22-JUL-05
To: Diane O'Quinn Williams, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue
Subject: Z2005000184

Fire Prevention Unit:

No objection to Case # Z2005000184.

Service Impact/Demand:

Development for the above Z2005000184
located at 11605 SW 95 ST, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1825 is proposed as the following:

<u>4 units</u> single	dwelling units	<u> </u> industrial	square feet
<u> </u> multifamily	dwelling units	<u> </u> institutional	square feet
<u> </u> commercial	square feet	<u> </u> nursing home	square feet

Based on this development information, estimated service impact is: __ alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 9 7777 SW 117 Ave.

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
None

Fire Planning Additional Comments:

No objection.

TEAM METRO

ENFORCEMENT HISTORY

MARCOS CENTURION

11605 S.W. 95 STREET, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

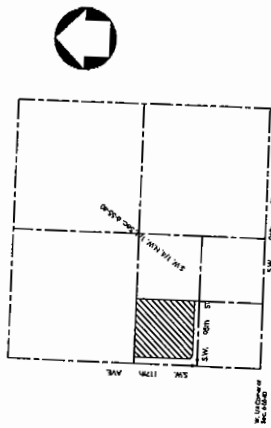
Z2005000184

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

Property found in violation on 2/01/06 for graffiti, warning letter was issued (Team Metro case #200602000063) reinspection on 2/17/06 found the property to be in violation of junk and trash, overgrowth on right of way and damaged chain link fence.

Jose Lopez



LOCATION MAP
Scale: 1" = 300'

LEGAL DESCRIPTION

[illegible]

Property Address: 11606 S.W. 95th Street, Miami Florida. 33176

RECEIVED
JUL 6 - 2005

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

9

score.

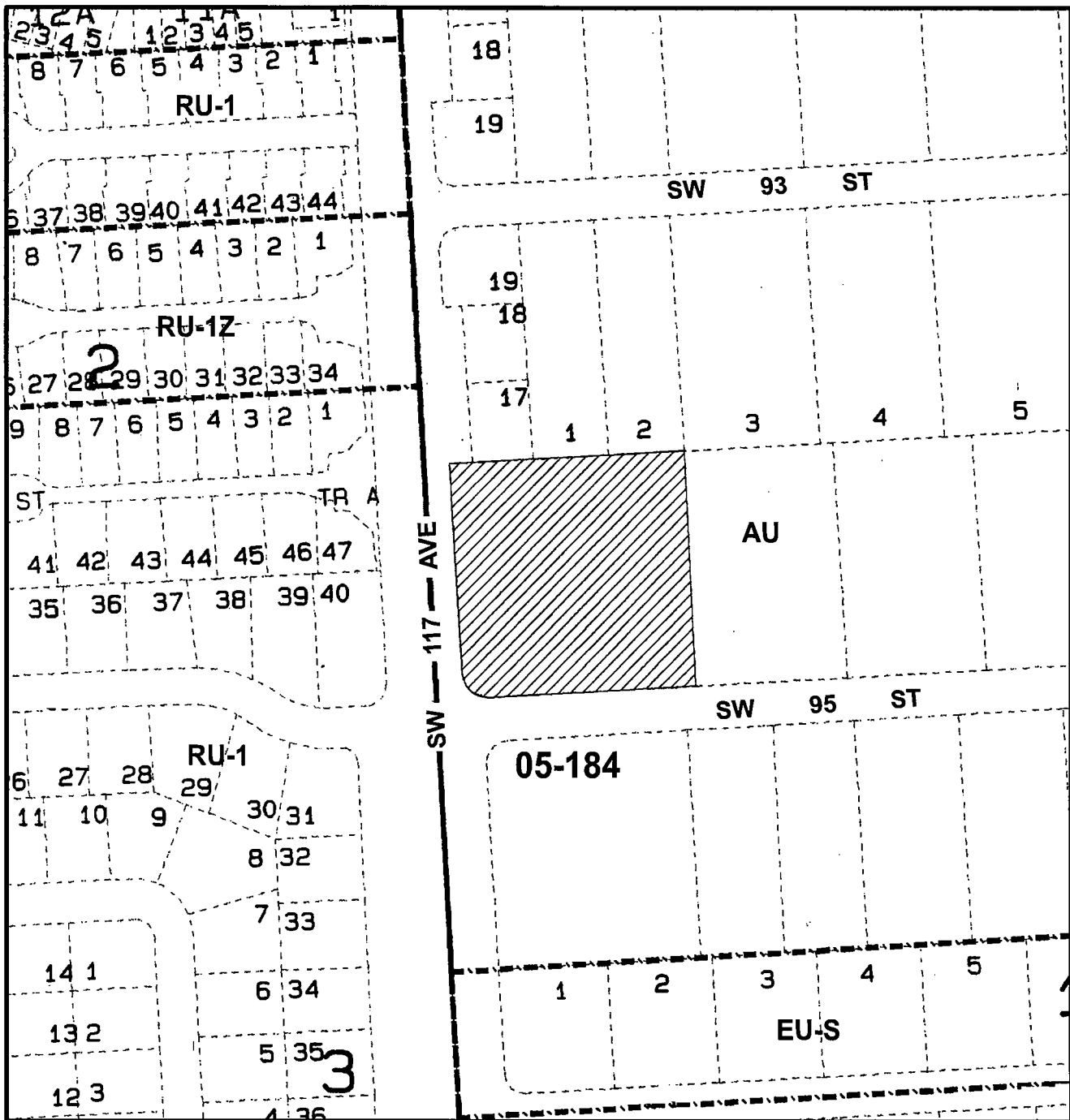
THIS IS NOT A PLAN OF SURVEY

Site Plan

[illegible]

MARIO PRATS JR. & ASSOCIATES, INC.
300 S.W. 10TH AVENUE SUITE 214 MIAMI, FLORIDA 33174
PHONE: (305) 551-4000 FAX: (305) 221-1239

SGN 1" x 20"	C.A.D. File (1) S.p.y 12572	Drawn By: M.P.	JOB NUMBER 19550
Date May 04, 2006		Created By: M.P.	1 OF 1 SHEET



**MIAMI-DADE COUNTY
HEARING MAP**

Section: 06 Township: 55 Range: 40
 Process Number: 05-184
 Applicant: MARCOS CENTURION
 District Number: 08
 Zoning Board: C12
 Drafter: ALFREDO
 Scale: 1:200'

S C A L E
 0 200' N

 SUBJECT PROPERTY





MIAMI-DADE COUNTY
AERIAL

Section: 06 Township: 55 Range: 40
Process Number: 05-184
Applicant: MARCOS CENTURION
District Number: 08
Zoning Board: C12
Drafter: ALFREDO
Scale: NTS

S C A L E
0 NTS N



SUBJECT PROPERTY



Holland+Knight

Tel 305 374 8500
Fax 305 789 7799

Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, FL 33131-2847
www.hklaw.com

Juan J. Mayol, Jr.
305 789 7787
juan.mayol@hklaw.com

March 29, 2006

VIA HAND DELIVERY

Nancy Rubin, Esq.
Legal Counsel, Miami-Dade County
Ms. Maria Teresa Fojo
Mr. Franklin Gutierrez ✓
Department of Planning and Zoning
111 NW 1st Street, 11th Floor
Miami, Florida 33128

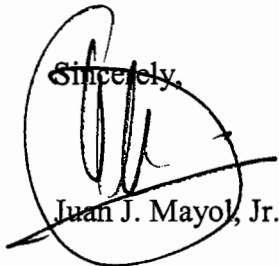
Received by
Zoning Agenda Coordinator
MAR 30 2006

Re: Public Hearing No. 05-184 / Marcos Centurion and Alfredo Garcia-Menocal

Dear Nancy, Maria Teresa and Franklin:

In connection with the above referenced public hearing, enclosed please find our proposed Declaration of Restrictions. We would request that a copy be included in the kits for the Community Zoning Appeals Board Members for Area 12 as has been requested in the past by the members of the council.

Thank you for your attention to this matter. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Juan J. Mayol, Jr.

JJM /ma

Enclosure

This instrument was prepared by:
Name: Juan J. Mayol, Jr., Esq.
Address: Holland & Knight LLP
701 Brickell Avenue
Miami, FL 33131

Received by
Zoning Agenda Coordinator
MAR 30 2006

DRAFT

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned, **MARCOS CENTURION AND ALFREDO GARCIA-MENOCAL** (collectively, the "Owner"), hold the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion; and

WHEREAS, the Owner filed Public Hearing No. 05-184 (the "Application"), requesting approval of a district boundary change from AU-1 to EU-M;

IN ORDER TO ASSURE the County that the representations made by the Owner during consideration of the Application will be abided by, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) Site Plan. The Property shall be developed substantially in accordance with that certain plan entitled "Site Plan," prepared by Mario Prats, Jr. & Associates, dated stamped received July 6, 2005 (the "Plan").
- (2) Limitation on the Number of Lots. The Property shall not be developed with more than four (4) residential lots.
- (3) Miscellaneous.
 - (a) County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
 - (b) Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

(c) Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

(d) Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

(e) Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

(f) Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

(g) Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

(e) Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

(f) Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

(g) Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application.

This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

(h) Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

(i) Owner. The term Owner shall include the Owner, and its heirs, successors and assigns.

[SIGNATURE PAGE FOLLOWS]

DRAFT

IN WITNESS WHEREOF, we have hereunto set our hands and seal this ____ day of _____, 2006.

WITNESSES:	
_____ Signature _____ Printed Name	By: _____ MARCOS CENTURION
_____ Signature _____ Printed Name	By: _____ ALFREDO GARCIA-MENOCAL

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by MARCOS CENTURION for the purposes stated herein on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Witness my signature and official seal this ____ day of _____, 2006, in the County and State aforesaid.

My Commission Expires:

Notary Public – State of Florida

Printed Name

Declaration of Restrictions

Page 5

DRAFT

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by ALFREDO GARCIA-MENOCAL for the purposes stated herein on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Witness my signature and official seal this _____ day of _____, 2006, in the County and State aforesaid.

My Commission Expires:

Notary Public – State of Florida

Printed Name

DRAFT

EXHIBIT A
LEGAL DESCRIPTION

3682278_v1